

# PROPOSED AMENDED, NEW, AND REVOKED LOCAL RULES TO BECOME EFFECTIVE JANUARY 1, 2016

## AMENDED RULE:

### 3.09.00 Defaults

- a. No defaults or uncontested matters shall be set for hearing by the clerk unless and until the judgment, and all pleadings and documents necessary for hearing and disposition of the matter, are on file in the clerk's office.
- b.
  - (1) In all cases of a request for entry of judgment, whether the request is for a clerk's judgment, court judgment, or the matter is set for prove up, it is the court's general policy to require evidence in support thereof shall be provided in written form, unless prohibited by law [CCP § 585(c)]. It is the policy of this court to require an evidentiary declaration from the plaintiff or plaintiff's agent in all cases of default.
  - (2) Affidavits and declarations presented in support of a prove up application shall comply with the requirements of CCP §§ 585 and 585.5.
  - (3) At a default prove up, allegations in the Complaint or Cross-Complaint, if applicable, are not deemed proved because of the failure of the adverse party to answer. In all cases, proof must be presented by competent evidence on each and all essential elements of the causes of action sought to be proved; conclusions, whether legal or factual, are insufficient. Affidavits and declarations must affirmatively show that the affiant or declarant is competent to testify to the statements made thereon. In general, the court will use the same standards for assessing the quality and sufficiency of the evidence as would be applied in a contested proceeding.
- c. In actions on promissory notes and contracts providing for the payment of attorney's fees, whenever a prevailing party is entitled to recovery of reasonable attorney's fees, the following schedule shall be considered by the court, in its discretion, in awarding such fees:

25% of the first \$1,000;  
20% of the next \$4,000;  
15% of the next \$5,000;  
10% of the next \$10,000;  
5% of the next \$30,000; and  
2% of the amount of \$50,000.
- d. Punitive Damages. The court will reject, unless evidence is provided of defaulting defendant's net worth, including liabilities. (Adams v. Murakami (1991) 54 Cal.3d 105; Baxter v. Peterson (2007) 150 Cal.App. 4th 673, 681.) (Effective 7/01/98, amended 1/01/01, and 1/01/16)

## **REVOKED RULE:**

**3.12.00 Tentative Rulings for Orders to Show Cause re: Dismissal/Sanctions:** If a dismissal is filed in the following cases by 3:00 p.m. on Thursday, no appearances will be necessary. If no dismissal is filed by 3:00 p.m. on Thursday, the personal appearance of plaintiff's counsel will be required at 8:30 a.m. on Friday in Department 4 to show why sanctions, up to and including dismissal, should not be imposed. No telephonic appearance will be permitted.

- a. Cases which have settled but no dismissal has been filed.
- b. Cases which have conditionally settled but counsel has failed to appear or failed to explain to the Court when the dismissal will be filed.
- c. Cases in which the defendant(s) are not timely served. (Effective 7/1/15, amended 1/01/16, revoked 1/01/16)

## **NEW RULE:**

### **11.02.00 Traffic/Tickets/Infractions Amnesty Program (10/1/2015 - 3/31/2017)**

Individuals who desire to participate under the statewide Traffic/Tickets/Infractions Amnesty Program will be required to complete and submit Local Form #TUC-TRF-200. (Effective 1/1/16)

If you have questions or comments regarding the new, revoked, or amended Local Rules above, please contact:

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